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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/709,392

Applicant(s)

OSWALD ET AL.

Examiner

MADHU KHANNA

Art Unit

2451

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 and 56-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 and 56-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This communication is in response to Amendment filed on 10/24/2008 under 37 C.F.R. 1.111. Claims 1, 25 and 54 have been amended and claim 55 has been cancelled. Claims 1-54 and 56-76 remain pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1 and 25 have been considered but are moot in view of the new ground(s) of rejection necessitated by the amendments.

3. In response to applicant's argument that Jandel is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

In this case, Jandel is directed to real-time communication between a plurality of clients in a network. Although Jandel does not specifically teach a peer-to-peer network, the object of Jandel is to improve the real-time performance in communications networks, particularly between a large number of clients. For performing the object, Jandel considers reliability and use of resources, such as bandwidth. These concerns are similarly taken into account for determining the efficiency of a peer-to-peer environment. Further, Jandel is relied upon for teaching the claimed feature of a prioritized list and not a peer-to-peer architecture.

4. Applicant's arguments regarding claim 2 have been fully considered but they are not persuasive. Specifically, it is argued that Chiu does not teach the claimed limitation, "indicating whether the content may be purchased for use".

In response to the above argument, it is noted that Applicant admits that Chiu does teach evaluating the completion of the content download and verification. As recited in the cited portion of the reference, Chiu further teaches that upon the completion of the download, registering with a look-up service. Once the content is downloaded the client may request to view the content. Chiu teaches a pay-per-view environment where any user who wants to view the content will be presented with a pay-per-view dialog screen, [0005]. Given that Chiu discloses pay-per-view, it is clear that the content must be purchased by the user. Therefore, Chiu does teach indicated at the client that a particular media item may be purchased for use.

5. Applicant's arguments regarding claim 51 have been fully considered but they are not persuasive. Specifically, it is argued that Perkes does not teach "each decryption key automatically expires after some period of time".

In response to the above argument, it is noted that Applicant recognizes that Perkes does teach encryption keys to be regularly updated. In order for the encryption key of Perkes to be updated, the key is changed from a first key to a second key. When the key is changed, the first key is replaced and no longer is valid; therefore the first key

has expired. Therefore, Perkes does teach that each decryption key automatically expires after some period of time.

The broadest reasonable interpretation in light of the specification has been applied to argue claim limitations. Applicant is urged to amend the claim language if the claim is not to be interpreted as noted above.

6. In response to applicant's argument that Doyle is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

In this case, Doyle is directed to deterministically transmitting video content over a network to a plurality of clients. Doyle is concerned with improving the ability to support real time transfer of video data. At the cited portions, Doyle was relied upon to teach the claimed feature of granting high priority to any of the plurality of devices with no media items to watch, and not the aspects of peer-to-peer architecture. Therefore, Applicant's argument regarding the combination of the applied references is not persuasive.

7. Applicant's arguments regarding claim 58 have been fully considered but they are not persuasive. Specifically, Applicant argued that the applied references do not teach the claimed limitation because Perkes uses the history of logged activity and past

history to determine the optimum time for download, instead of for determining a first user device.

In response to the above argument, it is noted that claim 58 depends from claim 57. Claim 57 is rejected under Kleinpeter because Kleinpeter teaches selecting the first device to receive the particular media item from the plurality of devices. However, Kleinpeter does not explicitly disclose the criteria for determining the first device, recited in claim 58 as being a device least most recently served. The applied reference at the cited portion was relied upon to teach the criteria for determining when a file should be transferred, specifically based on the past history of the user, and not to teach the reason why (e.g. optimizing bandwidth) this determination is made. Therefore, applicant's argument is irrelevant.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-3, 5, 6, 8, 9, 11, 13-17, 19-26, 28, 29, 31, 33-37, 39, 40, 43-50 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter II et al. (US 6,907,463) in view of Chiu (US 2003/0158958) in view of Schleicher et al. (US 7,047,406) (referred to hereafter as Schleicher1) and in further view of Jandel (US 6,763,371).

Regarding claim 1, Kleinpeter teaches a method for distributing media content to clients having peer- to-peer connectivity, the method comprising:

hosting an online catalog having a selection of media items available (column 3 lines 40-41);

responsive to the online catalog, receiving from each client (users) a list of media items desired to be received for use (column 1 lines 58-60);

based on where various media items reside (locations) (column 1 lines 60-64), determining a schedule (optimal repository user) for transferring media items (column 6 lines 57-60);

transferring the media items pursuant to the schedule, including transferring at least some of the items between clients (agents) using peer-to-peer connectivity (column 3 lines 64-66).

However, Kleinpeter does not disclose a central repository or explicitly disclose where at least some of the media items have been previously transferred from the central repository to some of the clients.

Chiu teaches a central repository (102 of FIG. 1), wherein at least some of the media items (content item) have already been previously transferred from the central repository (Content DB, 102 of FIG.1) to some of the clients (end-user system, 130 of FIG. 1) [0015];

It would have been obvious to one of ordinary skill at the time of the claimed invention given the desirability of Kleinpeter for reducing bandwidth requirements of a

source server in a file sharing environment, the teachings of Chiu for using user devices as network storage for distributing video-on-demand services. One of ordinary skill in the art of peer-to-peer sharing would recognize that additional distribution of files not requested by a user would increase the availability of the file on the network. One would be motivated to combine these teaching because in doing so, files determined to be popular based on user history would be constantly available to requesting users and reduce the amount of required queuing of requests.

However, Kleinpeter-Chiu do not explicitly disclose monitoring during the transferring of the media items to determine whether to transfer the media items from the central repository or from some of the clients.

Schleicher¹ teaches monitoring during the transferring of the media items to determine whether to transfer the media items from the central repository or from some of the clients (column 5 lines 56-64).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize establishing a peer-to-peer connection between two clients if the publishing client is on-line and serving the file by the server node if the publishing client is off-line in the system/method of Kleinpeter-Chiu as suggested by Schleicher¹ in order to expand the security and reliability of the system. One would be motivated to combine these teachings because it would allow direct transmission between clients when possible while being able to supply a file even when the client with the requested file is unavailable.

However, Kleinpeter-Chiu-Schleicher¹ do not explicitly disclose that the list of requested media items is a prioritized list, or that based on the prioritized lists received from the clients, determining a schedule for transferring media items, and monitoring the prioritized lists of the clients during the transferring of the media items.

Jandel teaches receiving from each client a prioritized list of media items desired to be received for use (column 3 lines 6-9);

based on the prioritized lists received from the clients, determining a schedule for transferring media items (the priorities of each client are used to determine which data is to be sent to this client, column 6 lines 57-58); and

monitoring the prioritized lists of the clients during the transferring of the media items a prioritized list of media items (column 8 lines 27-37).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize monitoring a prioritized list of media items during transferring of objects and delivering objects based on the priority list in the system/method of Kleinpeter-Schleicher¹-Chiu as suggested by Jandel in order to improve the performance of the system. One would be motivated to combine these teachings because it would provide a means for a client to specify the urgency of desired data, allowing the server to determine the optimum order in which requested items should be delivered while efficiently utilizing resources, such as bandwidth.

Regarding claim 2, Chiu teaches the method of claim 1, further comprising:

upon completion of transfer of a particular media item at a given client (upon completion of the content download and verification), indicating at the client that the particular media item may be purchased for use (any user who wants to view the content will be presented with a pay-per-view dialog screen, [0005]; access of the content in local storage by this end-user, [0015])

Regarding claim 3, Schleicher teaches the method of claim 1, wherein the selection of media items includes audio/video media items (column 3 lines 62-65).

Regarding claim 5, Chiu teaches the method of claim 1, wherein the hosting step includes pre-loading media items (downloads content items) on client devices supplied to users (end-user system) [0015].

Regarding claim 6, Chiu teaches the method of claim 5, wherein said step of pre-loading media items (downloads content items, [0015]) includes pre-loading particular media items based upon user requests for particular media items (system utilizes user-access history to pre-select or recommend content available on SAN, [0017]).

Regarding claim 8, Chiu teaches the method of claim 1, wherein the transferring step includes transferring the media items (content items) to client playback devices (e.g. DVD player) [0015].

Regarding claim 9, Schleicher¹ teaches the method of claim 1, wherein determining step includes determining a schedule that minimizes bandwidth requirements (column 2 lines 63-67).

Regarding claim 11, Kleinpeter teaches the method of claim 1, wherein the determining step includes determining a schedule that maximizes transfers between clients that can occur within a reasonable period of time (fastest speed connection, column 6 lines 20-25).

Regarding claim 13, Chiu teaches the method of claim 1, wherein the transferring step includes transferring the media items using broadband connectivity (a network architecture to enable a broadband service, such as a video-on demand service, in a peer-to-peer network environment, [0003]).

Regarding claim 14, Chiu teaches the method of claim 1, wherein each media item is transferred in encrypted format (the content can be encrypted or watermarked, [0007]).

Regarding claim 15, Schleicher¹ teaches the method of claim 14, further comprising:
receiving purchase instructions (billing information) from a given client (receives registration information entered by a user, which can include billing information, column 4 lines 47-49); and

in response to receiving the purchase instructions (when registration is complete, the user is notified and may then execute the P2P client application, column 4 lines 56-57), decrypting the particular media item for playback at the given client (when the file is received and authenticated, the user's public key may be used to decrypt the file, column 6 lines 32-34).

Regarding claim 16, Schleicher¹ teaches the method of claim 15, further comprising:

checking the given client's account status before decrypting the particular media item for playback at the given client (when the file is received and authenticated, the user's public key may be used to decrypt the file, column 6 lines 32-34).

Regarding claim 17, Kleinpeter teaches the method of claim 1, wherein the determining step includes:

determining which media items (specific file) may be transferred from one client (agent) to another (column 3 lines 60-63).

Regarding claim 19, Chiu teaches the method of claim 1, wherein the hosting step includes providing caching space at a client for storing media items (content) not on the prioritized list of media items (content) requested by said client (436 of FIG. 4).

Regarding claim 20, Chiu teaches the method of claim 19, wherein said determining step includes determining which media items need to be transferred (pre-select or

recommend content available on SAN, [0017]) from the central repository (Content DB, 102 of FIG. 1) to said caching space at the client (436 of FIG. 4).

Regarding claim 21, Chiu teaches the method of claim 1, wherein the transferring step includes transferring the media items (content items) using wireless connectivity (e.g. satellite) [0015].

Regarding claim 22, Kleinpeter teaches the method of claim 1, wherein the transferring step includes checking the media items transferred for determining that they have not been corrupted during the transfer (a client may say the transfer was successful) (column 8 lines 66-67).

Regarding claim 23, Kleinpeter teaches a computer-readable medium (any type of digital memory management system) having processor-executable instructions for performing the method of claim 1 (column 4 lines 3-10).

Regarding claim 24, Kleinpeter teaches a computer-readable storage medium having a downloadable set of processor-executable instructions (software agents) for performing the method of claim 1 (column 3 lines 17-25).

Regarding claim 25, Kleinpeter a system for distributing media content to clients having peer- to-peer connectivity, the system comprising:

an online catalog having a selection of media items available (column 3 lines 40-41)

a server for receiving from each client a list of media items desired to be received (column 1 lines 58-60) and for determining a schedule (optimal repository user) for transferring media items based on where particular media items reside (locations) (column 1 lines 60-64; column 6 lines 57-60),

a network, in communication with the server (agent server, executed on the network based computing system), for transferring the media items (shared files) pursuant to the schedule, including transferring at least some of the items (file requests) between clients (software agents) using peer-to-peer connectivity (direct connection between their respective computing systems) (column 3 lines 21-31); and

client devices associated with the clients (users), in communication with the network, for storing transferred media items (the client having that file locally stored, column 2 line 38)

However, Kleinpeter does not disclose a central repository, wherein at least one of the media items have already been previously transferred from the central repository to at least one of the clients, that the items desired to be received are for playback, or client device associated with the clients for playing back transferred media items.

Chiu teaches a central repository (102 of FIG. 1), wherein at least one of the media items (content item) have already been previously transferred from the central repository (Content DB, 102 of FIG.1) to some of the clients (end-user system, 130 of FIG. 1) [0015];

media items desired to be received for playback (request the content to, e.g. be played out now, [0004]); and

client devices associated with the clients (end-users systems 130 and 138 of FIG. 1), in communication with the network, for playing back transferred media items (can request the content to, e.g., be played out now or later, [0004]).

It would have been obvious to one of ordinary skill at the time of the claimed invention given the desirability of Kleinpeter for reducing bandwidth requirements of a source server in a file sharing environment, the teachings of Chiu for using user devices as network storage for distributing video-on-demand services. One of ordinary skill in the art of peer-to-peer sharing would recognize that additional distribution of files not requested by a user would increase the availability of the file on the network. One would be motivated to combine these teaching because in doing so, files determined to be popular based on user history would be constantly available to requesting users and reduce the amount of required queuing of requests.

However, Kleinpeter-Chiu do not explicitly disclose monitoring during the transferring of the media items to determine whether to transfer the media items from the central repository or from some of the clients.

Schleicher¹ teaches monitoring during the transferring of the media items to determine whether to transfer the media items from the central repository or from some of the clients (column 5 lines 56-64).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize establishing a peer-to-peer connection between two clients if

the publishing client is on-line and serving the file by the server node if the publishing client is off-line in the system/method of Kleinpeter-Chiu as suggested by Schleicher1 in order to expand the security and reliability of the system. One would be motivated to combine these teachings because it would allow direct transmission between clients when possible while being able to supply a file even when the client with the requested file is unavailable.

However, Kleinpeter-Chiu-Schleicher1 do not explicitly disclose that the list of requested media items is a prioritized list.

Jandel teaches a prioritized list of media items (column 3 lines 6-9).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize monitoring a prioritized list of media items during transferring of objects and delivering objects based on the priority list in the system/method of Kleinpeter-Schleicher1-Chiu as suggested by Jandel in order to improve the performance of the system. One would be motivated to combine these teachings because it would provide a means for a client to specify the urgency of desired data, allowing the server to determine the optimum order in which requested items should be delivered while efficiently utilizing resources, such as bandwidth.

Regarding claim 26, this system claim comprises limitations substantially the same as those discussed on claim 3, same rationale of rejection is applicable.

Regarding claim 28, this system claim comprises limitations substantially the same as those discussed on claim 8, same rationale of rejection is applicable. Further including items (content) are transferred to the client playback devices for storage (Chiu: stored onto an optical storage carrier such as a DVD-Video disk, [0004]).

Regarding claim 29, this system claim comprises limitations substantially the same as those discussed on claim 9, same rationale of rejection is applicable.

Regarding claim 31, this system claim comprises limitations substantially the same as those discussed on claim 11, same rationale of rejection is applicable.

Regarding claim 33, this system claim comprises limitations substantially the same as those discussed on claim 13, same rationale of rejection is applicable.

Regarding claim 34, this system claim comprises limitations substantially the same as those discussed on claim 14, same rationale of rejection is applicable.

Regarding claim 35, this system claim comprises limitations substantially the same as those discussed on claim 15, same rationale of rejection is applicable. Further including a module, responsive to the received payment instructions, for authorizing playback of the particular media item at the given client device (Chiu: any user who, e.g., wants to

view the content will be presented with a pay-per-view dialog screen. Subsequently the user can decide whether to pay or not, [0005]).

Regarding claim 36, Chiu teaches the system of claim 35, further comprising:

a module (e.g. Conditional Access Module) for checking the given client's (user's) account status before authorizing playback of the particular media item at the given client device (verification of a user's account and permission can be verified locally, e.g., by using a CAM, [0005]).

Regarding claim 37, Kleinpeter teaches the system of claim 25, wherein the server (server group) determines which media items (file) may be transferred from one client (agent) to another (column 3 lines 60-63).

Regarding claim 39, this system claim comprises limitations substantially the same as those discussed on claim 21, same rationale of rejection is applicable.

Regarding claim 40, Kleinpeter teaches wherein the online catalog is accessible via an Internet browser program (web browser) (column 3 lines 35-41).

Regarding claim 43, Chiu teaches the system of claim 25, wherein the client devices comprise set-top boxes (initiates a transfer from the first end-user's device (e.g. a set-top-box), [0004]).

Regarding claim 44, Chiu teaches the system of claim 43, wherein the set-top boxes (e.g. STBs) include hard disk storage (local storage (e.g., HDD)) and broadband connectivity (IP communication capabilities) (consumer set-top boxes (STBs), which include local storage (e.g., HDD), high processing power, and IP communication capabilities, [0007]).

Regarding claim 45, Schleicher1 teaches the system of claim 25, where the central repository (databases) comprises a media server (server node) (column 3 lines 55-57).

Regarding claim 46, Schleicher1 teaches the system of claim 45, wherein the media server (server node) stores downloadable video media (video files, column 3 lines 62-65).

Regarding claim 47, Schleicher1 teaches the system of claim 25, wherein the server includes a customer management module for tracking account status of each client (user database, column 4 lines 35-36).

Regarding claim 48, Schleicher1 teaches the system of claim 25, wherein the server includes a key vault storing decryption keys (the user's public key and private key are stored in the certificate database, column 4 lines 54-55) that may be transferred to

clients for playing back transferred media items (file) (the user's public key may be used to decrypt the file, column 6 lines 32-34).

Regarding claim 49, Schleicher1 teaches the system of claim 48, wherein the server checks account status of a client (user) (the server node receives registration information entered by the user, which can include billing information, column 4 lines 47-49) before issuing (generates) a decryption key to the client (user) (in response, the server node generates account information for the user, including a digital certificate that includes a public key and a private key, column 4 lines 50-52).

Regarding claim 50, Schleicher1 teaches the system of claim 48, wherein the server checks geographic location (demographic information) of a client before issuing (generates) a decryption key to the client (user) (column 4 lines 47-52).

Regarding claim 53, Kleinpeter teaches the system of claim 25, wherein at least some of the client devices (computing systems) communicate with said network through a network connection (column 3 lines 20-25).

9. Claims 4, 10, 18, 27, 30, 38, 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Chiu-Schleicher1-Jandel in view of Son et al. (US 2003/0126277).

Regarding claim 4, Kleinpeter-Chiu-Schleicher1-Jandel do not explicitly disclose the media items including various file types.

Son teaches wherein the selection of media items includes various file types (e.g. MPEG, AVI and ASF, [0021]).

It would have been obvious to one of ordinary skill at the time of the claimed invention given the desirability of Kleinpeter-Chiu-Schleicher1-Jandel for a reliable peer-to-peer sharing network, the teachings of Son for streaming multimedia data by using a peer-to-peer method. One would be motivated to combine these teaching because in doing so, the requesting client has immediate access to a catalog of available items from the server and can determine that a requested file should be received from the server only if no other client stores the file, further ensuring less load on the server.

Regarding claim 10, Son teaches the method of claim 1, wherein the determining step includes determining a schedule that minimizes transfers from the central repository (if one of the clients does not store the video data, the first client receives the video data from the server, [0027]).

Regarding claim 18, Son teaches the method of claim 17, wherein the determining step further comprises:

determining which media items (video data) need to be transferred from the central repository (server) to clients (if one of the clients does not store the video data, the first client receives the video data from the server, [0027]).

Regarding claim 27, this system claim comprises limitations substantially the same as those discussed on claim 4, same rationale of rejection is applicable.

Regarding claim 30, this system claim comprises limitations substantially the same as those discussed on claim 10, same rationale of rejection is applicable.

Regarding claim 38, Son teaches the system of claim 37, wherein the server determines (by communicating with the server) which media items (video data) need to be transferred from the central repository (server) to clients (if one of the clients does not store the video data, the first client receives the video data from the server, [0027]).

Regarding claim 41, Son teaches the system of claim 25, wherein the online catalog is accessible from the client devices (the catalog stored in the server is transmitted to the client, [0031]).

Regarding claim 42, Son teaches the system of claim 41, wherein the online catalog is accessible from the client devices (the catalog stored in the server is transmitted to the client, [0031]) via a selected one of online connectivity (between the server group and

the client group, there are the Internet and access networks, [0022]) and a local database at the client devices (client group includes a local network, [0022]).

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Chiu-Schleicher1-Jandel in view of Schleicher et al. (US 2002/0138576) (referred to hereafter as Schleicher2).

Regarding claim 7, Chiu teaches the method of claim 5, wherein the hosting step includes preloading media items (the user does not control the content stored on local storage and received from, e.g. database, [0016]).

However, Kleinpeter-Chiu-Schleicher1-Jandel do not explicitly disclose loading particular media items based upon predicting media items likely to be needed.

Schleicher2 teaches loading particular media items based upon predicting media items likely to be needed (providers may then specify which users should be targeted for which types of marketing content, [0028]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize targeting users based on user interests in the system/method of Kleinpeter-Chiu-Schleicher1-Jandel as suggested by Schleicher2 in order to efficiently distribute media items. One would be motivated to combine these teachings because personalizing the media items received by users will improve customer satisfaction.

11. Claims 12, 32, 51 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Chiu-Schleicher1-Jandel in view of Perkes et al. (US 2002/0194601).

Regarding claim 12, Kleinpeter-Chiu-Schleicher1-Jandel do not disclose the determining step being based on storage available at each client for receiving media items.

Perkes teaches the method of claim 1, wherein the determining step is also based on storage available at each client (consumer's computer) for receiving media items (determine the storage availability, [0050]).

It would have been obvious to one of ordinary skill at the time of the claimed invention given the desirability of Kleinpeter-Chiu-Schleicher1-Jandel for a reliable peer-to-peer sharing network, the teachings of Perkes for improved collecting, collating, organizing, analyzing and monetizing of information about a consumer's computer and peripheral device usage, while utilizing peer-to-peer broadcasting. One would be motivated to combine these teaching because doing so would enable providers and advertisers to deliver an increased volume of more refined, targeted content to more consumers while allowing users to utilize a wide range of peripherals and components connected to their computers.

Regarding claim 32, this system claim comprises limitations substantially the same as those discussed on claim 12, same rationale of rejection is applicable.

Regarding claim 51, Perkes teaches the system of claim 48, wherein each decryption key automatically expires after some period of time (allows encryption keys to be regularly updated, [0217]).

Regarding claim 52, Perkes teaches the system of claim 48, further comprising:
television devices (e.g. HDTV), in communication with the client devices, for playing back transferred media items [0038].

12. Claims 54, 57, 59-61, 62-65, 71 and 72 rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Jandel-Son in view of Doyle (US 7,310,679).

Regarding claim 54, Kleinpeter teaches a method comprising:

determining media items (shared files) available on a plurality of devices having connectivity to one another (column 3 lines 25-32);

receiving lists from at least some of said plurality of devices (users of the intelligent agent simple submit a list of requested files, column 1 lines 58-60);

selecting a particular media item (file) to be delivered to a first device of the plurality of devices based on the lists (column 3 lines 44-46);

identifying at least one second device of the plurality of devices (user) having the particular media item (file) to be delivered to the first device (column 3 lines 48-51); and transferring the particular media item (file) to the first device (agent 30A) from the at least one second device (agent 30B) at which the particular media item is available (column 3 lines 64-66).

However, Kleinpeter does not explicitly disclose a priority list which represents a prioritized list of media items requested at a particular device.

Jandel teaches wherein each priority list represents a prioritized list of media items requested at a particular device (column 3 lines 6-9).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize a prioritized list of media items in the system/method of Kleinpeter as suggested by Jandel in order to improve the performance of the system. One would be motivated to combine these teachings because it would provide a means for a client to specify the urgency of desired data, allowing the server to determine the optimum order in which requested items should be delivered while efficiently utilizing resources, such as bandwidth.

However, Kleinpeter-Jandel do not explicitly teach peer-2-peer connectivity or selecting a media item to be delivered to a first device based on media items determined to be available on the first device.

Son teaches peer-2-peer connectivity [0001]; and

selecting a particular media item to be delivered to a first device based on the media items determined to be available on the first device (investigates whether video data to be played is stored in its local disk, [0033]).

It would have been obvious to one of ordinary skill at the time of the claimed invention given the desirability of Kleinpeter-Jandel for generating revenue and reducing bandwidth requirements of a source server in a file sharing environment by utilizing a peer-to-peer method, the teachings of Son for a peer-to-peer network in which the client only receives the file from the server when it is not stored on another client. One would be motivated to combine these teachings because in doing so, a file is always available to a client from the server if no other client has it stored, while still significantly reducing distribution required from the server.

Doyle teaches the selection grants high priority to any of the plurality of devices with no media items to watch (column 6 lines 60-62).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize giving priority to clients with empty buffers in the system/method of Kleinpeter-Jandel-Son as suggested by Doyle in order to give a client a flawless viewing experience. One would be motivated to combine these teachings because it would ensure that a user of the system would always have available necessary video data to play a requested video.

Regarding claim 57, Kleinpeter teaches the method of claim 54, wherein said step of selecting a particular media item (file) to be delivered to a first device (column 3 lines

44-46) includes selecting the first device to receive the particular media item from said plurality of devices (sources) (files partially downloaded from one source may be completed from another source, column 2 lines 9-10).

Regarding claim 60, Kleinpeter teaches the method of claim 54, further comprising:

tracking measured performance of communications amongst said plurality of devices (the actual speed of the connection between server group and agent is determined rather than a default reported speed, column 5 lines 46-55).

Regarding claim 61, Kleinpeter teaches the method of claim 60, wherein said step of identifying at least one second device includes identifying at least one second device (agent) based, at least in part, on measured performance of communications between the first device and said at least one second device (server group to determine the optimal pair of agents with which to establish a connection for an individual file transfer, column 5 lines 63-67 – column 6 lines 1-8).

Regarding claim 63, Kleinpeter teaches the method of claim 54, wherein said step of identifying at least one second device (30B) includes making transfers from client devices having a copy of the particular media item when feasible (column 3 lines 60-67), so as to conserve server resources (column 1 lines 36-40).

Regarding claim 64, Kleinpeter teaches the method of claim 54, wherein said step of identifying at least one second device (optimal source) includes identifying said at least one second device (optimal source) based upon minimizing time required to transfer the particular media item to the first device (based on the speed of the network connection between the client having that file locally stored, column 2 lines 35-40).

Regarding claim 65, Kleinpeter teaches the method of claim 54, wherein said step of identifying at least one second device includes evaluating network location of the first device and said at least one second device (a geographic check is made as to whether or not agents in the list share the same sub-net, network, or non-USA country code, column 6 lines 17-20).

Regarding claim 71, Kleinpeter teaches the method of claim 54, wherein said step of transferring the particular media item to the first device includes determining which device should initiate communications (active agent) for delivery of the particular media item to the first device (distinctions are made because some agents are behind firewalls and can only establish connections, column 7 lines 5-22).

Regarding claim 72, Kleinpeter teaches the method of claim 54, wherein said step of transferring the particular media item to the first device includes monitoring the transfer, so as to verify successful transfer of the particular media file to the first device (a client may say the transfer was successful, column 8 lines 64-67).

13. Claims 56, 62 and 67-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Jandel-Son-Doyle in view of Schleicher1.

Regarding claim 56, Kleinpeter-Jandel-Son-Doyle do not explicitly disclose the plurality of devices includes at least one server having copies of media items for supply to client devices.

Schleicher1 teaches the method of claim 54, said plurality of devices includes at least one server having copies of media items (each server node 12 stores content 20 that comprises both commercial files 20a and non commercial files 20b, column 3 lines 58-60) for supply to client devices (delivered by the server node, column 5 lines 63-64).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize a server with a database of content to be supplied to clients in the system/method of Kleinpeter-Jandel-Son-Doyle as suggested by Schleicher1 because it would guarantee that a particular file is always available by maintaining a back-up copy. One would be motivated to combine these teachings because regardless of which peers are or are not connected to the network at a given time, a requested file can be obtained by a client.

Regarding claim 62, Schleicher1 teaches the method of claim 54, where said step of identifying at least one second device based upon minimizing overall system bandwidth requirements (column 63-67).

Regarding claim 67, Schleicher1 teaches the method of claim 54, wherein said step of identifying at least one second device includes identifying a plurality of second devices, so as to share transfer of the particular media item amongst said plurality of second devices (delivery using multiple and partial file transfers, column 6 lines 66-67 – column 7 line 1).

Regarding claim 68, Schleicher1 teaches the method of claim 54, wherein said step of transferring the particular media item to the first device (client node) includes transferring portions of the particular media item (file) from a plurality of second devices (nodes) (the client node downloads different portions of the file from different thus nodes, column 7 lines 1-2).

Regarding claim 69, Schleicher1 teaches the method of claim 68, wherein transferring portions of the particular media item (file) from a plurality of second devices (nodes) includes selecting a certain portion of a media item (1/3 of the file) to be delivered by a particular second device (downloading 1/3 of the file from three different nodes, column 7 lines 2-3).

Regarding claim 70, Schleicher1 teaches the method of claim 54, wherein said step of transferring the particular media item to the first device includes scheduling when the

transfer should be initiated (users may schedule delivery of content over the network, column 3 lines 32-35).

14. Claim 58 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Jandel-Son-Doyle in view of Perkes.

Regarding claim 58, Kleinpeter teaches the method of claim 57, wherein said step of selecting the first device to receive the particular media item from said plurality of devices (column 2 lines 9-10).

However, Kleinpeter-Jandel-Son-Doyle do not disclose the criteria for determining the device is determining a device least-most recently served by delivery of a media item.

Perkes teaches determining a device least-most recently served by delivery of a media item (uses the history of recent logged activity and past history stored in the consumers' profile to determine the optimum time for the download, [0058]).

It would have been obvious to one of ordinary skill at the time of the claimed invention given the desirability of Kleinpeter-Jandel-Son-Doyle for generating revenue in an efficient and reliable peer-to-peer network, the teachings of Perkes for improved collecting, collating, organizing, analyzing and monetizing of information about a consumer's computer and peripheral device usage, while utilizing peer-to-peer broadcasting. One would be motivated to combine these teaching because doing so

would enable providers and advertisers to deliver an increased volume of more refined, targeted content to more consumers while allowing users to utilize a wide range of peripherals and components connected to their computers.

Regarding claim 66, Perkes teaches the method of claim 54, wherein said step of identifying at least one second device includes determining a device least-most recently transferring a media item (uses the history of recent logged activity and past history stored in the consumers' profile to determine the optimum time for the download, [0058]).

15. Claims 73-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Jandel-Son-Doyle in view of Chiu.

Regarding claim 73, Kleinpeter-Jandel-Son-Doyle do not explicitly disclose verifying the transfer to confirm transfer of the correct copy of the particular media file to the first device.

Chiu teaches the method of claim 54, wherein the transferring step includes verifying the transfer, so as to confirm transfer of a correct copy of the particular media file to the first device (verifies the content during and after transfer, [0016]).

It would have been obvious to one of ordinary skill at the time of the claimed invention given the desirability of Kleinpeter-Jandel-Son-Doyle for generating revenue in

an efficient and reliable peer-to-peer network, the teachings of Chiu for utilizing a peer-to-peer method for distributing video-on-demand services, while maintaining a profile based on user-access history. One would be motivated to combine these teaching because in doing so, a better determination could be made of which files are popular and frequently requested, giving the server/provider information which would enable them to better judge which files to distribute to which clients.

Regarding claim 74, Chiu teaches the method of claim 54, further comprising:

pre-loading media items on at least some of the plurality of devices (head-end control system of SAN selects at least one end-user system, [0015]).

Regarding claim 75, Kleinpeter teaches the method of claim 74, wherein setting up an account at the time of purchase of the device (column 5 lines 17-24).

However, Kleinpeter does not disclose wherein setting up the account includes said pre-loading step including pre-loading particular media items on a device based on user input.

Chiu teaches wherein said pre-loading step includes pre-loading particular media items on a device based on user input (Chiu: system utilizes user-access history to pre-select or recommend content available on SAN, [0017]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize user-access history for selecting available content to be distributed in the system/method of Kleinpeter as suggested by Chiu in order to improve

customer satisfaction by personalizing the selection of content. One would be motivated to combine these teachings because the user would be provided with items of interest to the user.

16. Claim 76 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Jandel-Son-Doyle-Chiu in view of Schleicher2.

Regarding claim 76, Kleinpeter-Jandel-Son-Doyle-Chiu do not disclose pre-loading media items based, at least in part, on predicted demand for media items.

Schleicher2 teaches the method of claim 74, wherein said pre-loading step includes pre-loading media items based, at least in part, on predicted demand for particular media items (specify which users should be targeted for which types of marketing content, [0028]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize statistics of a user's behavior and using these statistics to determine which items to send to a user in the system/method of Kleinpeter-Jandel-Son-Doyle-Chiu as suggested by Schleicher2 in order to provide users with content directed to their interests. One would be motivated to combine these teachings because users will appreciate that the items downloaded to their system are specifically targeted to an individual user.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MADHU KHANNA** whose telephone number is (571)270-3629. The examiner can normally be reached on **Monday-Thursday 8:30-6**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. K./
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/Salad Abdullahi/
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